



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-823]

Laminated Woven Sacks from the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of laminated woven sacks (LWS) from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is July 1, 2017, through December 31, 2017.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Drew Jackson or Celeste Chen, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4406 or (202) 482-0890, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 11, 2018, Commerce published in the *Federal Register* the *Preliminary Determination* and invited interested parties to comment.¹ On October 23, 2018, Commerce

¹ See *Laminated Woven Sacks from the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value*, 83 FR 51436 (October 11, 2018) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (PDM).

postponed the final determination of this investigation until February 25, 2019.² Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.³ If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. Accordingly, the revised deadline for the final determination is now April 4, 2019. A summary of the events that occurred since Commerce published the *Preliminary Determination* may be found in the Issues and Decision Memorandum that is dated concurrently with this determination and hereby adopted by this notice.⁴

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version are identical in content.

Period of Investigation

The period of investigation is July 1, 2017, through December 31, 2017.

Scope of the Investigation

The products covered by this investigation are laminated woven sacks from Vietnam.

² See *Laminated Woven Sacks from the Socialist Republic of Vietnam: Postponement of Final Determination of Sales at Less Than Fair Value Investigation*, 83 FR 53452 (October 23, 2018).

³ See memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

⁴ See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Laminated Woven Sacks from the Socialist Republic of Vietnam," (Issues and Decision Memorandum).

For a full description of the scope of this investigation, *see* the “Scope of the Investigation,” at Appendix I.

Scope Comments

During the course of this investigation and the concurrent countervailing duty (CVD) investigation of LWS from Vietnam, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments.⁵ In response to Commerce’s invitation to comment on its preliminary scope determination, Commerce received scope comments from Halsted Corporation (Halsted),⁶ and rebuttal comments from the petitioners.⁷ However, Commerce rejected Halsted’s scope comments because they contained untimely filed new factual information.⁸ Because Halsted’s scope comments have been removed from the record of these investigations and Halsted did not file a redacted version of its scope comments within the deadline allotted by Commerce, Halsted’s comments have not been considered in these investigations.⁹ Furthermore, because the petitioners’ rebuttal comments respond to Halsted’s comments, which have been removed from the record of these investigations, Commerce has not considered the petitioners’ comments. Therefore, Commerce has made no changes to the scope of these investigations since the *Preliminary Determination*.

⁵ See Memorandum, “Antidumping and Countervailing Duty Investigations of Laminated Woven Sacks from the Socialist Republic of Vietnam: Preliminary Scope Determination,” dated October 3, 2018 (Preliminary Scope Decision Memorandum).

⁶ See Letter, “Antidumping and Countervailing Duty Investigations of Laminated Woven Sacks from the Socialist Republic of Vietnam: Rejection of Untimely Filed Factual Information,” dated December 12, 2018 (rejecting Halsted Corporation’s November 13, 2018 scope brief).

⁷ See Petitioners’ Letter, “Investigation of Laminated Woven Sacks from the Socialist Republic of Vietnam: Petitioners’ Rebuttal Scope Brief,” dated November 19, 2018.

⁸ See Letter, “Antidumping and Countervailing Duty Investigations of Laminated Woven Sacks from the Socialist Republic of Vietnam: Rejection of Untimely Filed Factual Information,” dated December 12, 2018. *See also* Letter, “Antidumping and Countervailing Duty Investigations of Laminated Woven Sacks from the Socialist Republic of Vietnam: Request for Withdrawal of Scope Comments,” dated February 8, 2019.

⁹ *Id.*

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), Commerce verified the sales and factors of production data reported by Duong Vinh Hoa Packaging Company Limited (DVH Packaging) for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by the respondent.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum accompanying this notice. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II.

For the final determination Commerce continues to rely upon facts otherwise available, with adverse inferences (AFA), for the Vietnam-wide entity, which includes Xinsheng Plastic Industry Co., Ltd. (Xinsheng Plastic) a mandatory respondent, pursuant to sections 776(a) and (b) of the Act.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for DVH Packaging since the Preliminary Determination. For a discussion of these changes, see the Issues and Decision Memorandum.

Separate Rates

For the final determination, we continue to find that four exporters are entitled to a separate rate, as noted below. In the *Preliminary Determination*, we assigned, as the separate rate, the margin calculated for DVH Packaging, the sole mandatory respondent for which we

preliminarily calculated an estimated weighted-average dumping margin, consistent with our practice.¹⁰ For the final determination, we continue to assign the estimated weighted-average dumping margin calculated for DVH Packaging to the exporters that are entitled to a separate rate.

Vietnam-Wide Entity

For the final determination, we continue to find that the Vietnam-wide entity, which includes certain Vietnamese exporters and/or producers that did not respond to Commerce's requests for information, failed to provide necessary information, failed to provide information in a timely manner, and significantly impeded this proceeding by not submitting the requested information. We also continue to find that the Vietnam-wide entity failed to cooperate. As a result, we continue to determine for the Vietnam-wide entity an estimated weighted-average dumping margin on the basis of AFA pursuant to section 776(b) of the Act. In the *Preliminary Determination*, Commerce based the AFA rate for the Vietnam-wide entity on the petition margin of 292.61 percent.¹¹ For this final determination, we continue to rely on AFA in determining the rate for the Vietnam-wide entity and, as AFA, we continue to select the petition margin of 292.61 percent as the estimated weighted-average dumping margin for the Vietnam-wide entity (including Xinsheng Plastic), as corroborated in the *Preliminary Determination*.

¹⁰ See *Preliminary Determination*, 83 FR 51436 and accompanying PDM at 11-18.

¹¹ *Id.* at 51437 and accompanying PDM at 17-18.

Combination Rates

In the *Initiation Notice*,¹² Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.¹³

Final Determination

The final estimated weighted-average dumping margins are as follows:

| Exporter | Producer | Estimated Weighted-Average Dumping Margin (percent) | Cash Deposit Rate (Adjusted for Subsidy Offsets) (percent) |
|---|---|--|---|
| Duong Vinh Hoa Packaging Company Limited | Duong Vinh Hoa Packaging Company Limited | 109.46 | 108.33 |
| C.P. Packaging (Vietnam) Industry Co., Ltd. | C.P. Packaging (Vietnam) Industry Co., Ltd. | 109.46 | 108.33 |
| Tan Dai Hung d.b.a. Tan Dai Hung Joint Stock Co. and Tan Dai Hung Plastic Joint Stock Company | Tan Dai Hung d.b.a. Tan Dai Hung Joint Stock Co. and Tan Dai Hung Plastic Joint Stock Company | 109.46 | 108.33 |
| TKMB Joint Stock Company | TKMB Joint Stock Company | 109.46 | 108.33 |
| Trung Dong Corporation | Trung Dong Corporation | 109.46 | 108.33 |
| Vietnam-wide entity ¹⁴ | | 292.61 | 291.48 |

¹² See *Laminated Woven Sacks from the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigation*, 83 FR 14257 (April 3, 2018) (*Initiation Notice*).

¹³ See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

¹⁴ The Vietnam-wide entity includes Xinsheng Plastic Industry Co., Ltd.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, for this final determination, we will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of LWS from Vietnam, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after October 11, 2018, the date of publication in the *Federal Register* of the affirmative *Preliminary Determination*. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the weighted average amount by which normal value exceeds U.S. price, as indicated in the chart above as follows: (1) for the producer/exporter combinations listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of Vietnamese producers/exporters of merchandise under consideration that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the Vietnam-wide entity; and (3) for all third-country exporters of merchandise under consideration not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the Vietnamese producer/exporter combination (or the Vietnam-wide entity) that supplied that third-country exporter. Commerce normally adjusts the estimated weighted-average dumping margin by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding when the CVD measures are in effect. Accordingly, where Commerce made an affirmative determination for countervailable subsidies that are export contingent,¹⁵ Commerce has offset the estimated

¹⁵ In the CVD final determination, we found the “Import duty exemptions on imports of raw materials for exporting goods” program to be an export subsidy. See *Laminated Woven Sacks from the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination*, and accompanying Issues and Decision Memorandum, dated

weighted-average dumping margin by the appropriate CVD rate(s). Any such adjusted cash deposit rates may be found in the “Final Determination Margin” section, above. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose to interested parties the calculations performed in connection with this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the *Federal Register*, in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce’s final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of LWS, no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

concurrently with this AD final determination. The rate applied to that program was 1.13 percent.

Notification Regarding Administrative Protective Orders

This notice will serve as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of propriety information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: April 4, 2019.

Gary Taverman,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is laminated woven sacks. Laminated woven sacks are bags consisting of one or more plies of fabric consisting of woven polypropylene strip and/or woven polyethylene strip, regardless of the width of the strip; with or without an extrusion coating of polypropylene and/or polyethylene on one or both sides of the fabric; laminated by any method either to an exterior ply of plastic film such as biaxially-oriented polypropylene (BOPP), polyester (PET), polyethylene (PE), nylon, or any film suitable for printing, or to an exterior ply of paper; printed; displaying, containing, or comprising three or more visible colors (*e.g.*, laminated woven sacks printed with three different shades of blue would be covered by the scope), not including the color of the woven fabric; regardless of the type of printing process used; with or without lining; with or without handles; with or without special closing features (including, but not limited to, closures that are sewn, glued, easy-open (*e.g.*, tape or thread), re-closable (*e.g.*, slider, hook and loop, zipper), hot-welded, adhesive-welded, or press-to-close); whether finished or unfinished (*e.g.*, whether or not closed on one end and whether or not in roll form, including, but not limited to, sheets, lay-flat, or formed in tubes); not exceeding one kilogram in actual weight. Laminated woven sacks produced in the Socialist Republic of Vietnam are subject to the scope regardless of the country of origin of the fabric used to make the sack.

The scope of this investigation excludes laminated woven sacks having each of the following physical characteristics: (1) no side greater than 24 inches, (2) weight less than 100 grams, (3) an open top that is neither sealable nor closable, the rim of which is hemmed or sewn around the entire circumference, (4) carry handles sewn on the open end, (5) side gussets, and (6) either a bottom gusset or a square or rectangular bottom. The excluded items with the above-mentioned physical characteristics may be referred to as reusable shopping bags.

Subject laminated woven sacks are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 6305.33.0040 and 6305.33.0080. If entered with plastic coating on both sides of the fabric consisting of woven polypropylene strip and/or woven polyethylene strip, laminated woven sacks may be classifiable under HTSUS subheadings 3923.21.0080, 3923.21.0095, and 3923.29.0000. If entered not closed on one end or in roll form (including, but not limited to, sheets, lay-flat tubing, and sleeves), laminated woven sacks may be classifiable under other HTSUS subheadings, including 3917.39.0050, 3921.90.1100, 3921.90.1500, and 5903.90.2500. If the polypropylene strips and/or polyethylene strips making up the fabric measure more than 5 millimeters in width, laminated woven sacks may be classifiable under other HTSUS subheadings including 4601.99.0500, 4601.99.9000, and 4602.90.0000. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes from the Preliminary Determination
- IV. Discussion of the Issues
 - Comment 1: Surrogate Value for Colored Ink
 - Comment 2: Financial Statements Used to Value Overhead; Selling, General and Administrative Expenses; and Profit
- V. Recommendation

[FR Doc. 2019-07198 Filed: 4/10/2019 8:45 am; Publication Date: 4/11/2019]